



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
T. E. MOHLER, JR.)

For Appellant: T. E. Mohler, Jr., in pro. per.
Respondent: Burl D. Lack, Chief Counsel;
A. Ben Jacobson, Associate Tax Counsel

O P I N I O N

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For Appellant: T. E. Mohler, Jr., in pro. per.
Respondent: Burl D. Lack, Chief Counsel;
A. Ben Jacobson, Associate Tax Counsel

This appeal is made pursuant to Section 19059 of the Revenue and Taxation Code from the action of the Franchise Tax Board in denying the claim of T. E. Mohler, Jr., for refund of personal income tax in the amount of \$53.48 for the year 1955 and, pursuant to Section 18594 of the Revenue and Taxation Code, from the action of the Franchise Tax Board on the protests of T. E. Mohler, Jr., against proposed assessments of additional personal income tax in the amounts of \$37.78, \$13.06 and \$27.51 for the years 1956, 1957 and 1958, respectively.

Respondent denied Appellant's claim for refund for the year 1955 on October 28, 1959, and this appeal was filed with us on August 23, 1960. Since the appeal was not filed within 90 days after Respondent's action it must be dismissed insofar as it relates to the claim for refund. (Rev. & Tax. Code, § 19057.)

Appellant has operated as a contractor, but was no longer actively pursuing his occupation in the years 1956, 1957 and 1958. For these years, respectively, he reported as total receipts from business the amounts of \$35.00, \$233.57 and \$327.96 and as business expenses the amounts of \$1,713.86, \$1,725.14 and \$1,725.14. The expenses consisted primarily of amounts claimed as automobile depreciation, insurance, repairs and fuel. Respondent disallowed as deductions substantially all of the claimed expenses and made certain minor adjustments, resulting in the assessments now in question.

In support of his position, Appellant has merely filed a statement that "normal business and tax expenses have not been allowed." He chose not to appear at the time scheduled for oral hearing. Appellant having failed to show any error, Respondent's action for the years 1956, 1957 and 1958 will be sustained. (Cal. Admin. Code, Tit:18 § 4036; New Colonial Ice Co. v. Helvering, 292 U. S. 435 [78 L. Ed. 1348].)

Appeal of T. E. Mohler, Jr.

O R D E R

Pursuant to the views expressed in the opinion of the Board on file in this proceeding, and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, pursuant to Section 19057 of the Revenue and Taxation Code, that the appeal of T. E. Mohler, Jr., from the action of the Franchise Tax Board in denying his claim for refund of personal income tax in the amount of \$53.48 for the year 1955 be and the same is hereby dismissed.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, pursuant to Section 18595 of the Revenue and Taxation Code, that the action of the Franchise Tax Board on the protests of T. E. Mohler, Jr., against proposed assessments of additional personal income tax in the amounts of \$37.78, \$13.06 and \$27.51 for the years 1956, 1957 and 1958, respectively, be and the same is hereby sustained.

Done at Sacramento, California, this 28th day of May, 1963,
by the State Board of Equalization.

John W. Lynch, Chairman
Geo. R. Reilly, Member
Alan Cranston, Member
Paul R. Leake, Member
 , Member

ATTEST: Dixwell L. Pierce, Secretary